

Cover Page

The language on the Cover Page related to permit coverage beyond the expiration date does not address the issue of when coverage under the expired permit would end. We recommend this language be deleted from the Cover Page and moved to a new section 3.6 of the permit that is similar to Part 1.4.4 of EPA's General Permit for Storm Water Discharges Associated with Construction Activity and reads as follows:

3.6 Continuation of Coverage for Existing Permittees after the Permit Expires

In accordance with IC 13-15-3-6, 40 CFR 122.6(or equivalent Indiana rule), the conditions of this permit remain fully effective and enforceable after the expiration date if the permittee has submitted a timely NOI for renewal of the general permit coverage and IDEM has not, through no fault of the permittee, issued a new permit on or before the expiration date of this permit.

You will remain covered under this permit until the earliest of:

- Your authorization for coverage under a reissued or replacement version of this permit; or
- Your submittal of a Notice of Termination; or
- Issuance or denial of an individual permit for the facility's discharges; or
- A final permit decision by IDEM not to reissue this general permit, at which time IDEM will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit. Coverage under this permit will terminate at the end of this time period.

Part I, Section 1.2

In the first paragraph , for clarity, we recommend deleting the phrase "by a valid individual NPDES permit".

In the first sentence of the third paragraph, clarify that the general permit is issued for a five year period from the effective date of the permit.

Part I, Section 1.3 g

We recommend that IDEM develop provisions similar to those addressing new dischargers to impaired waters similar to Parts 1.1.4.7 and 2.2.2.3 of EPA's Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activities and the associated Fact Sheet. (See <http://cfpub.epa.gov/npdes/stormwater/msgp.cfm>). Variants of those provisions are provided below.

1.This is an eligibility provision for new dischargers to impaired which addresses to requirements of 327 IAC 5-2-7(f):

1.3 g New Discharges to Water Quality Impaired Waters. If you are a new discharger you are not eligible for coverage under this permit to discharge to an “impaired water” unless you:

1. document that the pollutant(s) for which the waterbody is impaired is not present at your site, and retain documentation of this finding with your NOI; or
2. in advance of submitting your NOI, provide to IDEM data to support a showing that the discharge is not expected to cause or contribute to an exceedance of a water quality standard, and retain such data with your NOI. To do this, you must provide data and other technical information to IDEM’s Industrial Permit Section sufficient to demonstrate:

- i. For discharges to waters without an EPA approved or established TMDL, that the discharge of the pollutant for which the water is impaired will meet in-stream water quality criteria at the point of discharge to the waterbody; or

- ii. For discharges to waters with an EPA approved or established TMDL, that there are sufficient remaining wasteload allocations in an EPA approved or established TMDL to allow your discharge and that existing dischargers to the waterbody are subject to compliance schedules designed to bring the waterbody into attainment with water quality standards.

You are eligible under section 1.3.g.2 if you receive an affirmative determination from IDEM that your discharge will not contribute to the existing impairment, in which case you must maintain such determination onsite with your NOI.

2. This provision would appear in section 6 of the permit requires the permittee to continue to maintain the conditions that enabled the discharge to be authorized.

New Discharge to an Impaired Water. If your authorization to discharge under this permit relied on section 1.3 g for a new discharge to an impaired water, you must maintain any conditions on your site that enabled you to become eligible under section 1.3 g.

3. This language should be added to the first paragraph section 7.9 (Records Retention) immediately after “continuous monitoring instrumentation” to ensure any data and information used to make the discharge eligible for permit coverage is maintained:

“...all reports and certifications required by this permit and records of all data used to complete the NOI to be covered by this permit...”

Part I, Section 1.3 i

Please consider striking “given as” in the language.

Part I, Section 1.3 i

How will the prospective applicant make a determination of whether it will discharge to a designated Outstanding State Resource Water or Outstanding National Resource Water? We recommend that IDEM refers the readers to a list of such waters.

The Fact Sheet also excludes from permit coverage Exceptional Use Waters. We recommend that IDEM also refer the readers to these waters.

Part I, Section 3.2(a) and Fact Sheet Part H

When to Apply: The fact sheet states that "For a new facility, an NOI shall be submitted at least 15 days before any discharges of hydrostatic testing water occurs." IDEM may receive the 7existing applicants' NOI plus NOI forms from other facilities after the effective date of this general permit. Is 15 days enough for IDEM to review and determine whether all NOIs meeting the eligibility requirements? IDEM may want to determine the appropriate time frame for applicants to submit NOIs prior to commencing discharges.

Part I, Section 3.2 b) and the fact sheet Part H

According to this provision, "For a facility which has existing, effective coverage under the general permit-by-rule on the effective date of this general permit, the Commissioner shall automatically grant the facility coverage under this general permit unless". The existing facilities (around 7 facilities) covered under the permit-by-rule need also submit a NOI. IDEM should move this language to section 4.2 of the permit and revise it to clarify that any automatic coverage is subject to the eligibility requirements in the permit as well as any other new facilities. (IDEM may want to pre-screen these 7 facilities). IDEM should supplement section 9.1 to provide that IDEM may require a facility that is authorized under the general permit to obtain an individual permit when IDEM determines that the facility is ineligible for coverage under the general permit.

We recommend that the NOI form include a check list of eligibility requirements (i.e, from Part I 1.3 of the permit)

Please provide EPA an electronic version of draft NOI form.

Part I, Section 3.4 a

Add the phone number of the contact person.

Part I, Section 3.4 f

Add the outfall number(s).

Part I, Section 3.4 g

Add whether the receiving water is impaired and what pollutant(s) is the cause of the impairment.

The information used to evaluate new and increased discharges should be included in a separate section of the NOI.

Part I, Section 4.1

IDEM should revise the language in the first sentence to read: "...for completeness and accuracy, and to confirm that the discharge is eligible for the permit coverage."

Part I, Section 6.0

We recommend that this part begin as follows:

"All operators must control discharges as necessary to meet numeric and narrative water quality standards for any discharges authorized by this permit, with compliance required upon beginning such discharge. If at any time an operator becomes aware (e.g, through self-monitoring or by notification from IDEM or EPA) that the discharge causes or contributes to an excursion above any applicable water quality standard, the operator will be notified by the Commissioner in writing that an individual permit application is necessary.

We also recommend that the draft permit include provisions similar to Parts 2.2.2.1 and 2.2.2.2 of the EPA's Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activities (http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf) addressing existing discharges to impaired waters with or without an approved TMDL.

Part II, Section 8.3

We recommend that the first sentence of section 8.3 be deleted. The last sentence of the first paragraph of this section incorrectly references section 1.3 regarding renewal of the NOI. The correct reference is Section 3.2. We also recommend deleting the last paragraph of this section (regarding permittees choosing to be covered by an individual permit). This is covered in Section 9.2.

Fact Sheet Section G - Antidegradation Evaluation

The discussion under "Demonstration of a Non-Significant Lowering of Water Quality" appears to be incomplete. We recommend it be augmented as follows:

"In accordance with 5-2-11.3(b)(1)(C)(iii)(AA) and proposed rule 327 IAC 2-1.3-4, a new or increased discharge which only occurs for a short term, temporary period lasting less than 12 months does not constitute a significant lowering of water, is not subject to any further antidegradation review and is eligible for permit coverage."